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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,586	11/17/2000	Peter Worthington Hamilton	5922R2C	5737

27752 7590 09/23/2003

THE PROCTER & GAMBLE COMPANY
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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/715,586

Applicant(s)

WORTHINGTON HAMILTON ET AL.

Examiner

Victor S Chang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12,14-18,41-52,54-58,66,81,87,88 and 95-111 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12,14-18,41-52,54-58,66,81,87,88 and 95-111 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn.

Terminal Disclaimer

3. The terminal disclaimer filed on 7/2/2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Pat. No. 6,194,062 and U.S. Pat. Application 09/716740 has been reviewed and is accepted. The terminal disclaimer has been recorded on 8/4/2003.

Since the terminal disclaimer was entered after the issuing of prior Office action of Paper No. 13, and no new response has been received from Applicant, this Office essentially withdraws the double patenting rejection relating to U.S. Pat. Application 09/716740, and repeats the remaining portions of the prior Office action of Paper No. 13.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-12, 14-18, 41-52, 54-58, 66, 81, 87-88 and 95-111 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner repeats (see section 5 of Paper No. 13) that throughout the claims there are many exactly or practically duplicated claims with slight difference, the Examiner strongly urges that Applicant consolidates these claims to avoid possible confusion in the event that there may be infringement issues, and also to eliminate any possibility that duplicate or de facto duplicate claims might be allowed.

For example, the independent claims 41 and 95 are virtually identical, except that claim 95, line 2, also expressly claims an apparently inherent element of "substantially all of", which is clearly encompassed by claim 41.

Also, claims 87, 88, 110 and 111 clearly fail to further limit independent claims 41 and 95, and appear redundant.

Double Patenting

6. Claims 1-12, 14-18, 41-52, 54-58, 66, 81, 87-88 and 95-111 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of copending Application No. 10/027613. Although the conflicting claims are not identical, they are not patentably distinct from each other for the reasons set forth in section 6 of Paper No. 13.

Claim Rejections - 35 USC § 103

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7. Claims 1-12, 14-18, 41-52, 54-58, 66, 81, 87-88 and 95-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilbur (US 2338749) in view of the admitted prior art, for the reasons set forth in section 8 of Paper No. 13.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1300-
1700

Daniel Zinker